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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE CHAIRMAN

Ms. Donna R. Searcy
Secretary
Federal Communications Commission
1919 M Street, NW, Room 222
Washington, DC 20554

Re: Notification of Permitted Ex Parte Presentation
MM Docket Nos. 92-265 and 92-266

Dear Ms. Searcy:

Viacom International Inc. ("Viacom"), by its attorneys and pursuant to Section 1.1206(a)(2) of the Commission's rules, hereby submits an original and one copy of this memorandum regarding a permitted ex parte presentation to the Commission's staff regarding MM Docket Nos. 92-265 and 92-266.

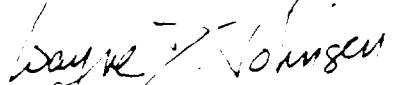
On Wednesday, March 10, 1993, at 4:30 p.m., Lawrence W. Secrest III and Philip V. Permut of this firm, on behalf of Viacom, met with John Hollar of Commissioner Duggan's staff. The discussion related to Viacom's comments and reply comments filed in response to the Notices of Proposed Rule Making in MM Docket Nos. 92-265, FCC 92-543 (rel. Dec. 24, 1992) and 92-266, FCC 92-544 (rel. Dec. 24, 1992), which sought comment on the implementation of various provisions of the Cable Television Consumer Protection and Competition Act of 1992 dealing with the development of competition and diversity in video programming distribution and carriage and the regulation of cable rates.

A copy of the attached document was presented to Mr. Hollar.

Ms. Donna R. Searcy
March 10, 1993
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Kindly direct any questions regarding this matter to
the undersigned.

Respectfully submitted,


Wayne D. Johnsen

WDJ/rr
cc: John C. Hollar, Esq.

**[From the Denver-Boulder Mountain News,
Sept. 21, 1992]**

CABLE BILL: STATIC AND SHOUT

Subsidized by the conductivity of programming the U.S. Congress isn't where or never or tobacco but potpourri—the variety that takes root on the airwaves. Hence, by a 20-19 vote, the House has approved a measure that would cap the rates cable TV companies can charge for basic service.

Under the House bill, bureaucratic flowers would be all over the fine-tuning knob. Congress, press not only would empower the Federal Communications Commission to set and enforce "fair" cable charges. Congress also

would specify how many phone lines each cable company must dedicate to customer complaints. It would require cable operators to refine technology within 10 years so that subscribers to basic service could enjoy one "free" premium channel (e.g., HBO). Good for this closely.

Most Congress members claim that regulating cable, liberated from federal control in 1984, would save consumer dollars. But the FCC would set rate ceilings only for bedrock services—local commercial and public channels, plus one or two "super stations." These stations would impose cable companies to charge fees for each of the 30 or so channels (ESPN, The Discovery Channel, etc.) that they now sell for one flat price. Some bargain. True, the fees could begin capping rates for three "second-tier" channels, too. But Washington cannot force a business to operate at a loss. Hold onto those rabbit ears, friends.

Yet one provision of the House bill makes sense—that barring local authorities from offering cable firms exclusive franchises. Such sweet deals explain cable overpricing. In towns where viewers can choose between two services, channel selection is greater and monthly charges average 25 percent less. But one decent feature does get a whole bill redem. President Bush should veto this cable regulation measure, which is mainly static and slow.

(From the Washington Post, Sept. 18, 1992)

UNCLE SAM IN CHAINS OR CABLE

The House legislation approved by the House and now headed for a Senate vote calls for the federal government to step in and regulate the industry from rules to program packaging. But this approach assumes that cable, now supplied mostly by monopolies, is a utility as necessary as electricity or telephone service. In fact, cable is a consumer option in what should become a more competitive market. This particular bill would give government a role in cable that consumers may not find so welcome over the long haul.

Forget the cable industry as predicting what passage of the bill would lead everybody's cable rates skyrocket the ceiling. Forget as well the argument of opponents—including over-the-air broadcasters, who like a provision that would force cable operators to negotiate with them before retransmitting their signals—but the bill would force price cuts of up to 30 percent. Both sides—and we note here that The Washington Post, owns cable systems as well as broadcast television stations—have reason to heartily lobby. So has the motion picture industry, which opposes the bill because Hollywood wouldn't get any cut of the royalties that broadcasters could seek from cable operators.

Under the measure, the government would set "reasonable" rates for what it would do fine as "basic" programming, content pricing for installation and equipment, regular client customer service and some cable operator

tions to equity all subscribers for channel selection that now are sold as packages of channels. The result of all these requirements is not more competition; it's more likely to be cornering by eliminating cable programming or even entire channels. The effort to control pricing by cable operators would focus on increasing competition, not on heavy regulation. Local broadcasters do materially, some deterioration of a reasonable rate of return for certain basic cable service is a legitimate legislature pursuit next year. This bill goes overboard.

(From the Baltimore Sun, Sept. 19, 1992)

DISTORTING THE CABLE-TV BILL

The battle now reaching a climax is over from over-regulating the cable television industry is a classic example of a bill intended to aid consumers that has always been subverted by interest groups fighting each other for competitive advantage.

The bill started as a consumer protection measure. Congress limited decisions on cable TV operations in 1984. Charges previously skyrocketed in many areas. Once service quality slipped almost as quickly. The cable TV industry could live with that. But the bill, operators gained a reputation for concentrating on expansion and amalgamation but neglecting their captive audiences. The bill would restore price controls on cable TV and impose quality standards for service. It would also ease the way for competitors in some areas that are flooded with monopoly franchises.

So far so good. Even some in the cable TV industry could live with that. But the bill, passed Thursday in the House of Representatives and due soon for a final vote in the Senate, goes farther. It would force the cable systems to negotiate with the over-the-air broadcasters for the right to carry their stations on their systems. Now the cable systems are required to carry local broadcasters free and not pay for them. The bill would also force the cable companies to sell program rights on their systems. Now the cable systems would be restricted by the cost of the bills passed Thursday in the House of Representatives and the Senate. However, the Department of Commerce and the industry itself indicate that the bill's language would see cable bills rise between 5% and 10% per month. The increase would be justified by the cost of the bills.

Estimates by the Office of Management and Budget, the Department of Commerce and the industry itself indicate that the bill's language would see cable bills rise between 5% and 10% per month. The increase would be justified by the cost of the bills.

The cable bill approved by a House-Senate conference committee was originally designed as a pro-consumer piece of legislation that would hold down rates. However, it has turned into a mishmash of federal regulation that could easily lead to precisely what the cable industry has warned customers about in its campaign against the bill: higher rates.

These factors may provide one key to the industry's lobbying. It had worked so locally and, in some cases, so irresponsibly that it has damaged its own cause. The cable industry considers the new regulations would interfere with its ability to compete with, if anything, a month. No one knows what, if anything, cable systems would have to pay broadcasters for the rights to carry their stations. It might stabilize. The broadcasters and cable systems need each other. Cable would be forced to sell without network and local programming, and broadcasters need to acquire their advertising the programs they pay for reaching the whole market.

With House passage, the battle shifts to the Senate. The cable industry is lobbying furiously to get enough Senate votes to defeat a proposal veto by President Bush. If the producers have decided that if cable must pay for overall material, they should get a cut of the programs they produced, too.

While the bill's sponsors still point to this provision for consumers as the measure's main feature, it has in fact been sacrificed with provisions that could mean billions of dollars to broadcasters and Hollywood studios. If the Senate fails to muster a veto-proof majority, the bill's original supporters ought to start all over next year. Keeping the new proposal strictly focused on the consumer's interests.

(From the Wyoming Eagle, Sept. 17, 1992)

CABLE BILL: WOULD END UP BUSTED

It's been difficult to turn on a television set in recent days without being bombarded

with all the confusion, the debate in Congress and the congressional committees that Senator Strom Thurmond is the glue that holds this all together. He is very aware and has been most helpful on all these

by conservatives both for and against the cable regulation bill now before Congress. With all of this type, it's difficult to look beyond the emotional appeals and see how the legislation would truly impact both the industry and the consumers' welfare. The cable industry, trying for deregulation eight years ago, claimed that regulation had kept rates artificially low. As a result, rates the industry was able to dictate in cable from cable rates have risen three times faster than inflation. Cable critics claim that for the industry, many consumers have received short-term benefits. The industry operates that it has invested in both improved equipment and programming.

In a sense, both claims have some validity. However, arguing about who's right and who's wrong in this controversy really does not get to the heart of the matter: what action will best protect the consumer in the future? The cable bill approved by a House-Senate conference committee was originally designed as a pro-consumer piece of legislation that would hold down rates. However, it has turned into a mishmash of federal regulation that could easily lead to precisely what the cable industry has warned customers about in its campaign against the bill: higher rates.

Estimates by the Office of Management and Budget, the Department of Commerce and the industry itself indicate that the bill's language would see cable bills rise between 5% and 10% per month. The increase would be justified by the cost of the bills.

Mr. KERRY. Mr. President, section 19 of the conference report directs the FCC to establish regulations to limit multichannel video programming distribution between satellite cable programmers and satellite broadcast programmers on the one hand, and tributaries on the other. Subsection XBXII of section 19 provides that in setting its regulations the FCC shall not prohibit a programming vendor from establishing different prices, terms and conditions to take into account actual and reasonable differences in the cost of creation, sale, delivery, or transmission of satellite cable programming or satellite broadcast programming. Am I correct in understanding that as used in subsection XBXII) the cost incurred at the multichannel video programming distributor's level as well as at the program vendor's level?

Mr. D'ROUTE. That is correct.

LONG-HORNE TELEVISION MUST GAIN

Mr. FORD. Mr. President, I would like to commend my colleague,

Mr. KERRY, from Hawaii for his efforts in helping me understand my colleagues' concerns. It has been an effort to work with him to make sure that we can have a sensible bill that protects consumers and broadcasters and has been most helpful on all these